



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5720-N-01]

The Violence Against Women Reauthorization Act of 2013: Overview of Applicability to HUD Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This notice provides an overview of the applicability to HUD programs of the recently enacted Violence Against Women Reauthorization Act of 2013. The 2013 law expands the number of HUD programs subject to the statute's protections beyond HUD's public housing and section 8 tenant-based and project-based programs. This notice highlights the key changes made by this statute, lists the HUD programs now covered by this statute, provides an overview of key provisions applicable to HUD programs, and advises of HUD's plans to issue rules or guidance on this new law. This notice is not program guidance for any individual HUD program covered by the new law. HUD will issue guidance and/or rules, as may be applicable, for covered programs at a later date. This notice is issued to provide an overview of the Violence Against Women Reauthorization Act of 2013, and alert HUD's program participants to the provisions applicable to HUD programs.

In addition to providing an overview, this notice seeks comment from HUD program participants and other interested members of the public on certain issues. Comments received in response to this solicitation will aid HUD in developing additional guidance and regulations.

DATES: Comment Due Date: **[Insert date 60 days from the date of publication in the Federal Register]**.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the docket number and title above.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the document.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD

Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202-708-3055 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION: For information about: HUD's Public Housing program, contact Becky Primeaux, Director, Public Housing Management and Operations Division, Office of Public and Indian Housing, Room 4210, telephone number 202-402-6050; HUD's Housing Choice Voucher program (Section 8) contact Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public and Indian Housing, Room 4216, telephone number 202-402-2425; HUD's Multifamily Housing programs, contact Catherine M. Brennan, Director, Housing Assistance Policy Division, Office of Housing, telephone number 202-708-3000; HUD's HOME Investment Partnerships program, contact Virginia Sardone, Deputy Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Room 7164, telephone number 202-708-2684; HUD's Housing Opportunities for Persons With Aids (HOPWA) program, please contact William Rudy, Deputy Director, Office of HIV/AIDS Housing, Office of Community Planning and Development, telephone number 202-708-1934; and HUD's Homeless programs, contact Ann Marie Oliva, Director, Office of Special Needs Assistance, Office of Community Planning and Development, telephone number 202-708-4300. The address for all offices is the Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410. The telephone numbers listed above are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION

I. Introduction

On March 7, 2013, President Obama signed into law the Violence Against Women Reauthorization Act of 2013 (Public Law 113-4, 127 Stat. 54) (VAWA 2013). VAWA 2013 reauthorizes and amends the Violence Against Women Act of 1994, as previously amended, (title IV, sec. 40001-40703 of Public Law 103-322, 42 U.S.C. 13925 *et seq.*)¹ VAWA 2013, among other things, enhances judicial and law enforcement tools to combat violence against women; improves services for victims; enhances services, protection, and justice for young victims of violence; strengthens the health care system's response to violence against women; and expands protections for Native American women and immigrants. The provisions of VAWA 2013 that are applicable to HUD programs are found in title VI of VAWA 2013, which is entitled "Safe Homes for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking." Section 601 of VAWA 2013 amends subtitle N of VAWA (42 U.S.C. 14043e *et seq.*) to add a new chapter entitled "Housing Rights."

Section 4 of VAWA 2013, entitled "Effective Date," provides that "Except as otherwise specifically provided in this Act, the provisions of titles I, II, III, IV, VII, and sections 3, 602, 901, and 902 of this Act shall not take effect until the beginning of the fiscal year following the date of enactment of this Act." Section 601 of title VI, which addresses HUD programs, does

¹ In this notice, the Violence Against Women Act of 1994, as amended over the years, is referred to solely as VAWA unless it is necessary or appropriate to refer to a specific reauthorization of VAWA. VAWA, established in 1994 as title IV of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103-322, approved September 13, 1994), has been reauthorized in 2000 through Division B of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) and in 2005 through The Violence Against Women Act and Department of Justice Reauthorization Act of 2005 (Public Law 109-162) (VAWA 2005). The references to "VAWA" in this notice include the amendments in 2000 and 2005, unless explicitly noted otherwise. The full text of the new law in pdf and plain text versions can be found, respectively, at <http://www.gpo.gov/fdsys/pkg/PLAW-113publ4/pdf/PLAW-113publ4.pdf>, and <http://www.gpo.gov/fdsys/pkg/PLAW-113publ4/html/PLAW-113publ4.htm>.

not have a one-year delayed effective date. (Section 602 of title VI addresses a housing grants program administered by the Department of Justice.) While the provisions of section 601 are effective upon enactment, this does not mean that these provisions are self-executing (self-executing means no implementing or interpreting regulation is necessary to enable the regulated parties to comply with the new provisions). VAWA 2005 was largely self-executing because VAWA 2005 amended the authorizing statutes for HUD's public housing and tenant-based and project-based section 8 programs and, by working within the framework of those statutes, VAWA 2005 facilitated the ability for participants in HUD's public housing and section 8 programs to immediately comply with the VAWA 2005 provisions. VAWA 2013 did not amend the authorizing statutes for the newly covered HUD programs, and therefore additional guidance and rulemaking will be required to enable and facilitate compliance with the VAWA 2013 provisions.

HUD Statutes and Programs Affected by VAWA 2013. In addition to HUD's public housing and section 8 tenant-based and project-based rental assistance programs that were subject to VAWA, VAWA 2013 makes the following HUD programs subject to the VAWA protections:

- Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q)²;
- Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013)³;

² It is HUD's view that VAWA 2013 does not cover Section 202 Direct Loan projects that are without project-based section 8 assistance. The statutory definition to "covered housing program" cites to the current section 202 (capital advance) authority. In cases where Congress seeks to make requirements applicable to the Section 202 Direct Loan projects, Congress would include language such as "section 202 of the Housing Act of 1959 as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act of 1990," as seen in the American Homeownership Economic Opportunity Act of 2000 (AHEO), as amended by the Section 202 Supportive Housing for the Elderly Act of 2010. Such language was not included in VAWA 2013. VAWA 2013 is also not applicable to section 202 when such assistance is coupled with Section 162 Assistance (Project Assistance Contracts). Additionally, VAWA 2013 is not applicable to the new Senior Preservation Rental Assistance Contracts.

³ This includes the Capital Advance Program, as well as the section 811 Rental Assistance Program, as authorized under the Frank Melville Supportive Housing Investment Act.

- Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 *et seq.*);
- HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 *et seq.*);
Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (McKinney-Vento) (42 U.S.C. 11360 *et seq.*)⁴;
- Federal Housing Administration (FHA) mortgage insurance for multifamily rental housing, under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate pursuant to section 221(d)(5) (such housing is eligible for FHA mortgage insurance for single-room occupancy pursuant to section 223(g) of the National Housing Act);
- FHA mortgage insurance for multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1); and
- HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 *et seq.*), specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) and tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f).

These HUD programs, together with rural housing assistance under certain sections of the Housing Act of 1949 and the low-income housing tax credit program under section 42 of the Internal Revenue Code, are referred to collectively in this notice, as “covered housing programs.” In this notice, HUD refers to the HUD programs included in the covered housing

⁴ VAWA 2013 states that “the program under subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 *et seq.*)” is a VAWA covered housing program. However, subtitle A of title IV does not include a program. Therefore, HUD submits that it was Congress’s intent to include the programs found elsewhere in title IV, which include the Emergency Solutions Grants program, the Continuum of Care program, and the Rural Housing Assistance Stability program.

programs as “HUD covered programs.” Housing made available under the HUD covered programs will be referred to as “assisted housing” in this notice.

While VAWA 2013 provides protections for individuals on tribal lands, VAWA 2013 does not list housing assisted under HUD’s Indian Housing programs in the list of HUD covered programs.

II. Pre-VAWA 2013 Requirements Compared to VAWA 2013 Requirements

Regulations pertaining to VAWA protections and rights and responsibilities are already in place, in 24 CFR part 5, subpart L, for HUD’s public housing and section 8 tenant-based and project-based rental assistance (collectively, the section 8 program). VAWA 2005⁵ made VAWA protections applicable to HUD’s public housing and section 8 programs. The VAWA 2013 amendments to sections 6 and 8 of the 1937 Act remove from these two sections of the 1937 Act certain provisions relating to admission, occupancy, and termination of assistance policies and rights and responsibilities of PHAs, owners, and managers as such policies and responsibilities relate to domestic violence, dating violence, and stalking; the documentation of these acts and confidentiality; and related definitions. These provisions are removed from the 1937 Act because, as discussed in more detail below, VAWA 2013 relocates these provisions to section 41441 of VAWA, which makes these provisions applicable to the programs added by VAWA 2013, and continues to make these provisions applicable to sections 6 and 8 of the 1937 Act. VAWA 2013 expands VAWA protections beyond sections 6 and 8 of the 1937 Act, but does not amend the authorizing statutes for the HUD covered programs. For purposes of clarity in this notice, the statutory requirements that were previously in place for sections 6 and 8 of the Housing Act of 1937 are referred to as “pre-VAWA 2013” requirements throughout this notice.

⁵ See footnote 1.

The following section provides a review of the pre-VAWA 2013 requirements and highlights the changes made by VAWA 2013. While rulemaking will be needed to conform HUD's existing VAWA regulations to the VAWA 2013 requirements and to establish VAWA regulations for the HUD programs newly covered by VAWA 2013, the following also identifies specific issues for which HUD seeks comment to inform HUD in the development of regulations or guidance, or both, as may be applicable.

A. Coverage for Victims of Sexual Assault

Pre-VAWA 2013: Absence of reference to victims of sexual assault in HUD covered programs. Although VAWA 2005 contained provisions for protection of victims of sexual assault (*see* 42 U.S.C. 14043e-1), reference to protection of victims of sexual assault was not part of the VAWA 2005 requirements applicable to HUD programs; that is, reference to victims of sexual assault was not included in the amendments to sections 6 and 8 of the 1937 Act. (See 42 U.S.C. 1437d(3) and 1437f(9) prior to amendment by VAWA 2013.) "Sexual assault" is defined as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA 2013: Coverage of victims of sexual assault in HUD covered programs. VAWA 2013 extends these protections to victims of sexual assault participating in HUD covered programs.

B. Admission, Occupancy, and Termination of Assistance Policies

Pre-VAWA 2013: The pre-VAWA 2013 requirements provided the following protections relating to admission, occupancy, and termination of assistance policies. The regulatory citation in parentheses that follows each protection provides where this protection, as

applies to HUD's public housing and section 8 programs, is currently codified in HUD regulations:

- Being a victim of domestic violence, dating violence, or stalking, as these terms are defined in the law, is not a basis for denial of assistance or admission to assisted housing if the applicant otherwise qualifies for assistance or admission (addressed in 24 CFR 5.2005(b));
- Incidents or threats of domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or as "good cause" for termination of the assistance, tenancy, or occupancy rights of the victim (addressed in 24 CFR 5.2005(c)(1)); and
- Criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate family member of the tenant is the victim (addressed in 24 CFR 5.2005(c)(2)).

VAWA 2013: The protections described above are also included in VAWA 2013 and apply to all HUD covered programs. In each of the protections described above, VAWA 2013 also adds sexual assault whenever the pre-VAWA 2013 language references "domestic violence, dating violence, or stalking."

Criminal activity. VAWA 2013 also expands protections relating to the prohibition of terminating assistance because of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking by replacing the term "immediate family member" with "affiliated individual." VAWA 2013 provides that criminal activity directly relating to domestic

violence, dating violence, sexual assault, or stalking that is engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an *affiliated individual* of the tenant is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking (emphasis added).

Affiliated individual. VAWA 2013 defines an "affiliated individual," with respect to an individual, as a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis, or any individual, tenant, or lawful occupant living in the household of that individual.

The 2011 Senate legislation for reauthorization of VAWA, the VAWA Reauthorization Act of 2011 (S. 1925), introduced the term "affiliated individual." The Senate Report accompanying that legislation (Senate Rpt. 112-153, March 12, 2012) explained the reason for the introduction of that term. The report stated in relevant part as follows: "[T]o better reflect the terminology used by the housing industry, the bill replaces the term 'immediate family member' with 'affiliated individual' in referring to other victims associated with the tenant who are protected under this provision." (Senate Rpt. 112-153, at page 13.⁶)

C. Rights and Responsibilities of PHAs, Owners, and Managers

Pre-VAWA 2013: Noninterference with rights and responsibilities of PHAs, Owners, and Managers. Pre-VAWA 2013 requirements provided that the policies governing admission, occupancy, and termination of assistance are not to interfere with certain rights and

⁶ See <http://www.gpo.gov/fdsys/pkg/CRPT-112srpt153/pdf/CRPT-112srpt153.pdf>.

responsibilities of public housing agencies (PHAs), owners, or managers⁷ regarding criminal activity or acts of violence against family members or others.

Option to bifurcate lease. Specifically, pre-VAWA 2013 requirements provided that notwithstanding the restrictions placed on admission, occupancy, and termination of occupancy or assistance as discussed in preceding section B of this notice, or any Federal, State, or local law to the contrary, a PHA, owner, or manager of assisted housing may bifurcate a lease for housing in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing who engages in criminal acts of physical violence against family members or others without evicting, removing, terminating the assistance to, or otherwise penalizing a victim of such violence, who is a tenant or lawful occupant (addressed in 24 CFR 5.2009(a)).

VAWA 2013: Bifurcation of lease and opportunity to establish eligibility for remaining tenants. VAWA 2013 continues to allow for lease bifurcation, but changes the language regarding the violent acts (“criminal acts of physical violence against family members or others” becomes “criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual”), and mandates that if such bifurcation occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the PHA, owner, or manager shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program.

If the remaining tenant cannot establish eligibility, the PHA, owner, or manager is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. VAWA 2013 provides that the appropriate agency, in

⁷ Please note that in HUD’s housing programs the term “manager” as used in VAWA 2013 is synonymous with the phrase “management agent.”

this case HUD, with respect to HUD covered programs, is to determine what constitutes a reasonable time.

HUD will provide through rulemaking or guidance, as may be applicable, what constitutes a reasonable time for remaining tenants to find new housing or establish eligibility under another HUD covered housing program.

Specific request for comment. HUD specifically solicits comment from HUD participants in HUD covered programs on that period that would be reasonable to find new housing or establish eligibility under another HUD covered housing program.

Pre-VAWA 2013: Restrictions on implementing VAWA protections. Pre-VAWA 2013 requirements also provided restrictions that the law places on implementing the VAWA protections, and carrying out the rights and responsibilities under VAWA, as discussed in section B. The regulatory citation in parentheses, which follows each limitation, provides where this limitation, as applies to HUD's public housing and section 8 programs, is currently codified in HUD regulations. Pre-VAWA 2013 requirements provided that VAWA:

- May not be construed to limit a PHA, owner, or manager from honoring various court orders issued to either protect the victim or address the distribution of property in case a household breaks up (addressed in 24 CFR 5.2009(b));
- Does not limit any otherwise available authority of a PHA, owner, or manager to terminate assistance or evict due to any lease violation unrelated to domestic violence, dating violence, or stalking, provided that the owner or manager does not subject a tenant to a more demanding standard than other tenants in determining whether to evict or terminate assistance (addressed in 24 CFR 5.2005(d)(1));

- May not be construed to limit the authority of a PHA, owner, or manager to terminate the assistance of, or evict, any occupant who can be demonstrated to pose an actual and imminent threat to other tenants or the property's employees (addressed in 24 CFR 5.2005(d)(2)); and
- Shall not be construed to supersede any provisions of Federal, State, or local laws that provide greater protection for victims of domestic violence, dating violence, or stalking (addressed in 24 CFR 5.2011).

VAWA 2013: VAWA 2013 extends these restrictions to all HUD covered programs.

Additionally, PHAs, owners, and managers must immediately include victims of sexual assault in the provision currently described at 24 CFR 5.2005(d)(1). HUD notes that VAWA 2013 does not include victims of sexual assault in this provision, but as this is inconsistent with other changes in the law, HUD believes that the absence of sexual assault in this provision was an oversight in the drafting of the statute, rather than congressional intent to exclude victims of sexual assault from this provision.

D. Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Confidentiality

Pre-VAWA 2013: Documentation requirements. Pre-VAWA 2013 requirements allowed a PHA, owner, or manager of assisted housing to request documentation that an applicant or tenant is a victim of domestic violence, dating violence, or stalking if the applicant or tenant seeks and requests the protections of VAWA previously discussed in this notice (addressed in 24 CFR 5.2007(a)). However, VAWA did not require a PHA, owner, or manager of assisted housing to request this information (addressed in 24 CFR 5.2007(d)). If a tenant or applicant does not provide this documentation after it is requested by the PHA, owner, or

manager, then the PHA, owner, or manager may evict or terminate assistance of the tenant or a family member, for violations of the lease or family obligations that otherwise would constitute good cause to evict or grounds for termination (addressed in 24 CFR 5.2007(c)).

Acceptable forms of documentation include the following (the regulatory citation in parentheses that follows each form of documentation, as applies to HUD's public housing and section 8 programs, provides where this documentation is currently codified in HUD regulations):

- A certification form approved by HUD that states that an applicant or tenant is a victim of domestic violence, dating violence, or stalking, the incident of domestic violence, dating violence, sexual assault, or stalking that requires protection, and the name of the perpetrator (addressed in 24 CFR 5.2007(b)(1) and the HUD-approved forms are HUD-50066 and HUD-91066⁸);
- A document that is signed by the applicant or tenant and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the applicant or tenant has sought assistance relating to domestic violence, dating violence, or stalking, or the effects of abuse, in which the professional states, under penalty of perjury, that he or she believes that the abuse meets the requirements found in VAWA (addressed in 24 CFR 5.2007(b)(3));
- A Federal, State, tribal, territorial, or local police report or court record (addressed in 24 CFR 5.2007(b)(2)); or

⁸ The HUD-approved certification form, HUD-50066, is used by the HUD covered programs administered by HUD's Office of Public and Indian Housing. The HUD-approved certification form, HUD-91066, is used by the HUD covered programs administered by HUD's Office of Multifamily Housing, Office of Housing. These forms are available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/.

- A statement or other evidence provided by an applicant or tenant, at the discretion of the PHA, owner, or manager (addressed in 24 CFR 5.2007(d)).

The applicant or tenant must provide the documentation within 14 business days after the date that the applicant or tenant receives a request in writing for such documentation, though the PHA, owner, or manager of assisted housing may extend the 14-day deadline at his or her discretion (addressed in 24 CFR 5.2007(a)).

Confidentiality requirements. Pre-VAWA 2013 requirements mandated that any information submitted to a PHA, owner, or manager regarding domestic violence, dating violence, or stalking, including the fact that the individual is a victim of such abuse, be kept confidential and may not be entered into any shared database or disclosed to any other entity or individual, except to the extent that the disclosure is requested or consented to by the individual in writing, required for use in an eviction proceeding, or otherwise required by applicable law (addressed in 24 CFR 5.2007(b)(4)). If a PHA, manager, or owner receives documentation that contains conflicting information, the PHA, owner, or manager may require an applicant or tenant to submit third-party documentation (addressed in 24 CFR 5.2007(e)).

VAWA 2013: Documentation and confidentiality requirements. VAWA 2013 extends the documentation and confidentiality provisions found in the existing VAWA requirements to all HUD covered programs. VAWA 2013, as did VAWA, requires a certification form approved by the appropriate agency, which is HUD for the HUD covered programs.

Development of forms for new HUD covered programs. HUD will develop forms, similar to forms HUD-50066 and HUD-91066 for the newly covered HUD programs.

Specific request for comment. HUD specifically solicits comment on how these forms may be adapted for the newly covered HUD programs.

Increased confidentiality and statement of mental health professional. Changes made by VAWA 2013 to the documentation and confidentiality requirements currently reflected at 24 CFR, part 5, subpart L are as follows:

- Sexual assault is added to the list of domestic violence, dating violence, or stalking;
- The victim of domestic violence, dating violence, sexual assault, or stalking is required to provide the name of the perpetrator on the HUD-approved certification form only if the name of the perpetrator is safe to provide and is known to the victim;
- An acceptable form of documentation includes a document that is signed by the applicant or tenant and a mental health professional from whom the applicant or tenant has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of such actions, and states, under penalty of perjury, that the mental health professional believes that the domestic violence, dating violence, sexual assault, or stalking meets the requirements found in VAWA 2013; and
- An acceptable form of documentation includes a record of an administrative agency.

Modification to existing forms. HUD will modify its existing forms, HUD-50066 and HUD-91066, to ensure that the forms reflect an obligation on the part of the victim to provide the name of the perpetrator only if it is safe to provide and if it is known to the victim. HUD will also modify its existing forms to reflect the additional acceptable forms of documentation that the victim may submit; for example, a document signed by the tenant, or a mental health professional or an administrative agency record. In addition, HUD will modify its forms to cover victims of sexual assault.

E. No superseding of greater protections

Pre-VAWA 2013: VAWA provides that protections provided by VAWA do not supersede any provision of any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, or stalking (addressed in 24 CFR 5.2011).

VAWA 2013: VAWA 2013 expands this provision to all covered housing programs and adds sexual assault to the list of domestic violence, dating violence, or stalking.

F. Notification

Pre-VAWA 2013: Notification of VAWA protections. Pre-VAWA 2013 requirements obligated each PHA, owner, and manager of assisted housing to provide notice to tenants of their VAWA rights, including the right to confidentiality and the limits thereof (addressed in 24 CFR 5.2005(a)(1) and 5.2005(a)(3)). Additionally, pre-VAWA 2013 requirements obligated each PHA to provide notice to owners and managers of assisted housing of their rights and obligations under VAWA (addressed in 24 CFR 5.2005(a)(2)).

VAWA 2013: Enhanced notification of VAWA protections. VAWA 2013 extends the requirements addressed at 24 CFR 5.2005(a)(1) and 5.2005(a)(3) to all covered HUD programs, but requires that HUD, as opposed to the individual housing provider, develop the notice outlining the applicant or tenant's rights. VAWA 2013 removes the statutory requirement addressed at 24 CFR 5.2005(a)(2), but this requirement is still in effect (via HUD's regulation) for the section 8 program. Additionally, VAWA 2013 requires that the notice be provided together with the certification form discussed in section D of this notice. VAWA 2013 also requires notice to be provided at the time the applicant is denied residency in a dwelling unit, at the time the individual is admitted to a dwelling unit, with any notification of eviction or notification of termination of assistance, and in multiple languages, consistent with guidance

issued by the Secretary of Housing and Urban Development in accordance with Executive Order 13166.

Development of Notice of Rights. HUD is developing the notice of rights, which will be issued first for comment under the Paperwork Reduction Act.

Specific request for comment. HUD specifically solicits comment, in advance of issuance of a notice for comment under the Paperwork Reduction Act, on the content of the notice of tenant's rights.

G. Emergency Transfers – New Provisions in VAWA 2013

VAWA 2013 adds increased protection for victims of abuse by requiring HUD to adopt a model emergency transfer plan for use by PHAs, owners, managers or other housing providers participating in HUD covered programs. The model plan must allow tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to transfer to another available and safe dwelling under a covered housing program and must incorporate reasonable confidentiality measures to ensure that the public housing agency or owner or manager does not disclose the location of the new dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant. The tenant can be granted a transfer only if the tenant requests a transfer, and either the tenant reasonably believes he or she is threatened with imminent harm from further violence if he or she remains in the unit or, if the tenant is a sexual assault victim, the sexual assault occurred on the premises during the 90-day period preceding the transfer request. Any transfer is subject to the availability of other assisted housing and subject to all other HUD requirements being met.

In addition, VAWA 2013 requires HUD to establish policies and procedures under which victims of abuse requesting an emergency transfer may receive, subject to the availability of tenant protection vouchers, assistance through the tenant-based section 8 program.

Specific Request for Comment. HUD specifically requests comments on the content of the model emergency transfer plan and the implementation of the tenant protection vouchers provision.

III. Complying with VAWA 2013 Requirements

As noted earlier in this notice, HUD will undertake rulemaking to conform its existing VAWA regulations, currently applicable to public housing and section 8 programs, to the new statutory language and requirements, and to put in place VAWA regulations for all the HUD covered programs.

HUD's Public Housing and Section 8 Programs. Since HUD's public housing and section 8 programs already have VAWA regulations in place, compliance with the VAWA 2013 requirements will be easier for PHAs, owners, and managers participating in these programs. With the exception of emergency transfer plans and the determination of what is a "reasonable time" for a victim to find new housing or establish eligibility for another HUD program after the abuser (a person that commits an act of domestic violence, dating violence, sexual assault, or stalking) has been removed from the program, PHAs, owners, or managers administering public or section 8 housing will continue to provide VAWA protections as provided in 24 CFR part 5, subpart L, as those protections are enhanced by VAWA 2013. Before such time that HUD develops the model Emergency Transfer Plan, PHAs, owners, or managers may continue to implement any transfer plan at that property/program as described in an agency's admissions and occupancy plan or administrative plan.

New HUD Covered Programs. For those HUD covered programs that were not previously required to offer VAWA protections, HUD recognizes that full compliance with VAWA 2013 may be challenging at this time. Although all housing providers in HUD covered programs are concerned with the safety of their tenants and strive to ensure that tenants feel safe in their housing and the neighborhood in which the housing is located, HUD recognizes the challenge for maintaining safety that is presented by domestic violence since the threat to safety is generally in the tenant's own household, and the overall shortage of available affordable housing can complicate the ability to immediately transfer victims of domestic violence to other housing. The complications may be eased somewhat as a result of protections for victims of domestic violence provided by State and local laws.⁹ Having these types of laws in place across the Nation may help to facilitate compliance with VAWA 2013.

Guidance to be issued for new HUD covered programs. Recognizing the challenges facing participants in the new HUD covered programs that are now subject to VAWA requirements, HUD will be issuing administrative guidance to help programs comply with VAWA 2013, in addition to promulgating regulations.

⁹ See compendium of State and local laws that affect domestic violence survivors' housing rights compiled by the National Housing Law Project at <http://nhlp.org/files/Domestic%20violence%20housing%20compendium%20FINAL7.pdf>.

IV. Solicitation of Comment

In this notice, HUD has highlighted certain issues for which comment is specifically sought, but welcomes comment on any aspect of this notice.

Date: July 31, 2013

Shaun Donovan
Secretary

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